

JS 44 (Rev. 06/17)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS**CHASE FROST**(b) County of Residence of First Listed Plaintiff PHILADELPHIA
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Rahul Munshi, Esquire, Console Mattiacci Law, LLC
1525 Locust Street, 9th Floor, Philadelphia, PA 19102
215-545-7676

DEFENDANTS**CITY OF PHILADELPHIA**County of Residence of First Listed Defendant PHILADELPHIA
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTIONCite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 U.S.C. §12101, et seq., 43 P.S. §951, et seq. ("PHRA"), and Phila. Code §9-1100, et seq. ("PFPO").

Brief description of cause:

Plaintiff brings this action against Defendant because he was discriminated against because of his disability.

VII. REQUESTED IN COMPLAINT:
☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$ in excess of \$75,000.00

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE August 29, 2017

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: Philadelphia, PA 19130

Address of Defendant: 1401 JFK Blvd. Philadelphia, PA 19102

Place of Accident, Incident or Transaction: 1401 JFK Blvd. Philadelphia, PA 19102
(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?
(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities? Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court? Yes ☐ No ☒
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☒ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☐ All other Federal Question Cases
(Please specify) _____

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases
(Please specify) _____

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, Rahul Munshi, counsel of record do hereby certify:
☒ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
☐ Relief other than monetary damages is sought.

DATE: August 29, 2017

[Signature]
Attorney-at-Law

307548

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: August 29, 2017

[Signature]
Attorney-at-Law

307548

Attorney I.D.#

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

CHASE FROST	:	CIVIL ACTION
	:	
v.	:	
	:	
CITY OF PHILADELPHIA	:	NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (x)

August 29, 2017

Date


Attorney-at-law

Chase Frost

Attorney for Plaintiff

215-545-7676

Telephone

215-814-8920

FAX Number

munshi@consolelaw.com

E-Mail Address

Plaintiff was discriminated against because of his disability in violation of the Americans with Disabilities Act, as amended, 42 U.S.C. §12101, *et seq.*, the Pennsylvania Human Relations Act, as amended, 43 P.S. §951, *et seq.* (“PHRA”), and the Philadelphia Fair Practices Ordinance, as amended, Phila. Code §9-1100, *et seq.* (“PFPO”). Plaintiff seeks all damages, including economic loss, compensatory, and punitive damages, and all other relief under applicable federal and state law as this Court deems appropriate.

II. PARTIES

1. Plaintiff, Chase Frost, is an individual and citizen of the Commonwealth of Pennsylvania.

2. Plaintiff is a disabled individual under the statutes that form the basis of this matter.

3. Defendant, the City of Philadelphia, is a political subdivision of the Commonwealth of Pennsylvania, with its principal office located at 1401 John F. Kennedy Blvd., Philadelphia, PA 19102.

4. Defendant is engaged in an industry affecting interstate commerce and, at all relevant times, has regularly conducted business in the Commonwealth of Pennsylvania.

5. At all times material hereto, Defendant employed more than fifteen (15) individuals.

6. At all times material hereto, Defendant acted by and through its authorized agents, servants, workmen, and/or employees acting within the course and scope of their employment with Defendant and in furtherance of Defendant’s business.

7. At all times material hereto, Defendant has acted as an “employer” within the meanings of the ADA, PHRA, and PFPO.

III. JURISDICTION AND VENUE

8. The causes of action which form the basis of this matter arise under the ADA, PHRA, and the PFPO.

9. The District Court has jurisdiction over Count I (ADA) pursuant to 42 U.S.C. §12117(a) and 28 U.S.C. §1331.

10. The District Court has supplemental jurisdiction over Count II (PHRA) pursuant to 28 U.S.C. §1367.

11. The District Court has supplemental jurisdiction over Count III (PFPO) pursuant to 28 U.S.C. §1367.

12. Venue is proper in the District Court under 28 U.S.C. §1391(b)(2) because a substantial part of the events or omissions giving rise to the claim occurred within this District.

13. On or about January 12, 2016, Plaintiff filed a Charge of Discrimination with the Equal Employment Opportunity Commission (“EEOC”), complaining of acts of discrimination alleged herein. This Charge was cross-filed with the Pennsylvania Human Relations Commission (“PHRC”). Attached hereto, incorporated herein and marked as Exhibit 1 is a true and correct copy of the EEOC Charge of Discrimination.

14. On or about June 6, 2017, the Department of Justice issued to Plaintiff a Notice of Right to Sue for his Charge of Discrimination. Attached hereto, incorporated herein and marked as Exhibit 2 is a true and correct copy of that notice.

15. Plaintiff has fully complied with all administrative prerequisites for the commencement of this action.

IV. FACTUAL ALLEGATIONS

16. In 2004, Plaintiff joined the Delaware County Parkside Fire Company as a volunteer firefighter.

17. On August 11, 2007, Plaintiff became disabled after performing a fire rescue.

18. The rescue resulted in Plaintiff's left arm and right leg needing to be amputated and then fitted with prosthetics.

19. Plaintiff was also severely burned during the rescue, which resulted in visible scars over 60% of Plaintiff's body, which includes his head, neck, right arm, and left leg.

20. Since August 11, 2007, Plaintiff has had approximately 100 surgeries, including 53 major general anesthesia surgeries. He has been hospitalized at 10 different hospitals in 3 states for a total of over 18 months. Plaintiff also attended rigorous physical therapy sessions several times per week since 2007.

21. In 2011, Plaintiff enrolled at Thomas Jefferson University Hospital ("TJUH") to become a Paramedic. The program consisted of a didactic component, clinical skill simulation labs, hospital based clinical shifts, and pre-hospital (field) internships.

22. In 2012, Plaintiff completed his field internship with the Philadelphia Fire Department, which included 396 hours of field work.

23. As part of this internship with the Philadelphia Fire Department, Plaintiff received positive reviews on his mid-year (June 2012) and final performance evaluations (August 2012).

24. Plaintiff also completed field internships with the Haverford Township EMS (48 hours) and Atlanticare Regional Medical Center (672 hours).

25. In September 2012, Plaintiff completed his paramedic training at TJUH.

26. Plaintiff is currently a registered Paramedic with the National Registry of

Emergency Medical Technicians (“NREMT”), certified as a Paramedic with the Pennsylvania Department of Health, has over five (5) years of experience and education as a Paramedic, and has well over 1,100 hours of field internship experience.

27. On October 6, 2014, Plaintiff applied with Defendant for the position of Fire Services Paramedic.

28. Plaintiff was scored a 70% by Defendant based off his application which, upon information and belief, is the highest score an applicant can receive (minus additional points for Legacy or Veteran status).

29. Based on this initial score, Plaintiff learned on or around November 24, 2014 from Defendant’s Human Resources (“HR”) department that his Civil Service eligible ranking was #34 out of a large number of applicants.

30. On or around June 29, 2015, Kia Miller, Clerk III for Defendant, emailed Plaintiff information regarding orientation for the Fire Academy’s 32nd Class.

31. On or around July 7, 2015, Plaintiff attended the orientation.

32. At the orientation, Diane Schweizer, Deputy Commissioner Administrative Services, and Captain Art Alleyne, Captain, explained the essential functions of the Fire Services Paramedic position and the physical training requirements.

33. On or around July 21, 2015, Plaintiff was interviewed by William A. Twardzik, Esq., EEO Officer, and Ms. Schweizer.

34. Plaintiff requested that he be permitted to use a video laryngoscope that he had already owned and had been approved by the NREMT as a reasonable accommodation.

35. Mr. Twardzik and Ms. Schweizer told Plaintiff that they would “look into his request.”

36. Later on July 21, 2015, Ms. Miller gave Plaintiff a conditional offer of employment and instructions on how to complete the application process.

37. On or around July 29, 2015, Plaintiff was measured for bunker gear and for a uniform, but it was difficult for him to fasten the coat and put on the boots because of his prosthetics.

38. On or around July 30, 2015, Plaintiff emailed Ms. Schweizer and requested a different version of the coat and “zip up” boots as reasonable accommodations. Upon information and belief, both of these items can be easily obtained by Defendant. Ms. Schweizer responded that she would “look into his concerns.”

39. On or around August 7, 2015, as part of Defendant’s application process, Plaintiff underwent a medical evaluation by the City of Philadelphia Employee Medical Services (“CPEMS”).

40. Initially, Plaintiff met with Dr. George Hayes, Jr., CPEMS Medical Director, and he conducted a physical examination.

41. Dr. Hayes went over Plaintiff’s medical history and asked questions about Plaintiff’s prosthetics. Dr. Hayes further inquired about the extent of Plaintiff’s disability and asked if he was able to perform the essential functions of the Fire Services Paramedic position with a reasonable accommodation.

42. Plaintiff confirmed that he was able to perform the essential functions of the Fire Services Paramedic position with a reasonable accommodation.

43. Plaintiff reiterated to Dr. Hayes the three (3) reasonable accommodations he requested to Mr. Twardzik and Ms. Schweizer (video laryngoscope, coat, and boots).

44. Dr. Hayes instructed Plaintiff to give his treating physicians forms to complete so

that they could verify if Plaintiff was able to complete the essential functions of the Fire Services Paramedic Position.

45. Plaintiff agreed to provide the forms to his treating physicians.

46. Dr. Hayes finished one part of the examination and Plaintiff was then taken to another room by another staff member to continue the examination.

47. The staff member inquired about Plaintiff's disability and quickly did the examination.

48. When the staff member allegedly finished her portion of the examination, she told Plaintiff that he could leave.

49. Plaintiff asked her about the remaining aspects of the medical examination.

50. Dr. Hayes informed the staff member that she was to complete the medical examination, but she refused to do so. Plaintiff was instructed to wait in the waiting room while Dr. Hayes and the staff member conversed.

51. Approximately ten (10) minutes later, another staff member told Plaintiff that he could leave.

52. Plaintiff asked for the forms Dr. Hayes wanted his treating physicians to complete and for a job description of the Fire Services Paramedic position. Plaintiff was given an envelope and then left.

53. When Plaintiff arrived at home, he realized that the job requirements were not included in the envelope. He contacted CPEMS about obtaining a job description and was told they were "looking into it."

54. On or around August 25, 2015, during a conversation with Dr. Hayes, he told Plaintiff that Plaintiff needed to complete a second set of paperwork.

55. On or around August 27, 2015, Plaintiff retrieved the paperwork, which included a description of the job requirements.

56. The job requirements were listed in a redacted email, from Robert Jeter, Captain, to Ms. Schweizer dated August 12, 2015. However, these requirements were not the same requirements given at the July 7, 2015 orientation by Ms. Schweizer and Captain Alleyne.

57. On September 30, 2015, Plaintiff turned in all of the requirement paperwork to Dr. Hayes. He reviewed the paperwork and conducted additional testing.

58. Dr. Hayes informed Plaintiff that Defendant had hesitations about hiring him, and then instructed Plaintiff “to think really hard” whether he wanted to proceed in applying at Defendant. Plaintiff told Dr. Hayes that he wanted to work for Defendant.

59. Dr. Hayes stated that he would set up a meeting among himself, Plaintiff, attorney Twardzik, Deputy Commissioner Schweizer, and the head of the fire academy to discuss Defendant’s hesitations with Plaintiff’s potential employment and his requests for reasonable accommodations.

60. Plaintiff then asked Dr. Hayes if they could meet before the Fire Academy’s 32nd Class started and he said “absolutely.”

61. Thereafter, no representative of Defendant reached out to Plaintiff to discuss his potential employment and training with the Fire Academy’s 32nd Class.

62. Accordingly, Plaintiff was not able to participate in the Fire Academy’s 32nd Class, which commenced on or around October 26, 2015 and ended on or around December 11, 2015.

63. Defendant failed to provide a legitimate, non-discriminatory reason for not hiring Plaintiff.

64. At all times material hereto, Plaintiff was disabled within the meanings of the ADA, PHRA, and PFPO.

65. At all times material hereto, Plaintiff had a record of disability within the meanings of the ADA, PHRA, and PFPO.

66. At all times material hereto, Plaintiff was regarded as disabled within the meanings of the ADA, PHRA, and PFPO.

67. Plaintiff's disabilities, including his record of disability and Defendant's regarding him as disabled, were motivating and/or determinative factors in connection with Defendant's discriminatory treatment of Plaintiff, including the failure to hire Plaintiff.

68. As a direct and proximate result of the discriminatory conduct of Defendant, Plaintiff has in the past incurred, and may in the future incur, a loss of earnings and/or earning capacity, loss of benefits, pain and suffering, embarrassment, humiliation, loss of self-esteem, mental anguish, and loss of life's pleasures, the full extent of which is not known at this time.

69. Defendant acted with malice, reckless indifference, and/or deliberate indifference to Plaintiff's protected rights.

COUNT I – ADA

70. Plaintiff incorporates herein by reference paragraph 1 through 69 above, as if set forth herein in their entirety.

71. Plaintiff's disability was a substantial, motivating, and/or determinative factor in connection with Defendant's treatment of him.

72. By committing the foregoing acts of discrimination against Plaintiff, Defendant has violated the ADA.

73. As a direct and proximate result of Defendant's violation of the ADA, Plaintiff

has suffered the damages and losses set forth herein and has incurred attorneys' fees and costs.

74. Plaintiff is now suffering and will continue to suffer irreparable injury and monetary damages as a result of Defendant's discriminatory and retaliatory acts unless and until this Court grants the relief requested herein.

75. No previous application has been made for the relief requested herein.

COUNT II - PHRA

76. Plaintiff incorporates herein by reference paragraphs 1 through 75 above, as if set forth herein in their entirety.

77. Plaintiff's disability was a substantial, motivating, and/or determinative factor in connection with Defendant's treatment of him.

78. By committing the foregoing acts of discrimination, Defendant has violated the PHRA.

79. As a direct and proximate result of Defendant's violation of the PHRA, Plaintiff has sustained the injuries, damages, and losses set forth herein and has incurred attorneys' fees and costs.

80. Plaintiff is now suffering and will continue to suffer irreparable injury and monetary damages as a result of Defendant's discriminatory and retaliatory acts unless and until this Court grants the relief requested herein.

81. No previous application has been made for the relief requested herein.

COUNT III - PFPO

82. Plaintiff incorporates herein by reference paragraphs 1 through 81 above, as if set forth herein in their entirety.

83. Plaintiff's disability was a substantial, motivating, and/or determinative factor in

connection with Defendant's treatment of him.

84. By committing the foregoing acts of discrimination, Defendant has violated the PFPO.

85. Said violations were intentional and willful.

86. As a direct and proximate result of Defendant's violation of the PFPO, Plaintiff has sustained the injuries, damages, and losses set forth herein and has incurred attorneys' fees and costs.

87. Plaintiff is now suffering and will continue to suffer irreparable injury and monetary damages as a result of Defendant's discriminatory and retaliatory acts unless and until this Court grants the relief requested herein.

88. No previous application has been made for the relief requested herein.

RELIEF

WHEREFORE, Plaintiff seeks damages and legal and equitable relief in connection with Defendant's improper conduct, and specifically prays that this Court grant the following relief to Plaintiff by:

- (a) declaring the acts and practices complained of herein to be in violation of the ADA;
- (b) declaring the acts and practices complained of herein to be in violation of PHRA;
- (c) declaring the acts and practices complained of herein to be in violation of the PFPO;
- (d) enjoining and permanently restraining the violations alleged herein;
- (e) entering judgment against Defendant and in favor of Plaintiff in an amount to be determined;
- (f) awarding compensatory damages to make Plaintiff whole for all lost earnings, earning capacity and benefits, past and future, which Plaintiff has suffered or may suffer as a

result of Defendant's improper conduct;

- (g) awarding compensatory damages to Plaintiff for past and future pain and suffering, emotional upset, mental anguish, humiliation, and loss of life's pleasures, which Plaintiff has suffered or may suffer as a result of Defendant's improper conduct;
- (h) awarding punitive damages to Plaintiff;
- (i) awarding Plaintiff such other damages as are appropriate under the ADA, PHRA, and the PFPO;
- (j) awarding Plaintiff the costs of suit, expert fees and other disbursements, and reasonable attorneys' fees; and
- (k) granting such other and further relief as this Court may deem just, proper, or equitable including other equitable and injunctive relief providing restitution for past violations and preventing future violations.

CONSOLE MATTIACCI LAW, LLC

Dated: August 29, 2017

By: 

Stephen G. Console
Rahul Munshi
1525 Locust St., Ninth Floor
Philadelphia, PA 19102
(215) 545-7676
(215) 814-8920 (fax)

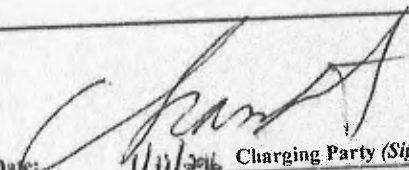
Attorney for Plaintiff,
Chase Frost

Exhibit 1

CHARGE OF DISCRIMINATION This form is affected by the Privacy Act of 1974; See privacy statement before consolidating this form.		AGENCY <input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC	CHARGE NUMBER
STATE OR LOCAL AGENCY: PHRC			
NAME (Indicate Mr., Ms., Mrs.) Mr. Chase Frost		HOME TELEPHONE NUMBER (Include Area Code) (610) 800-6543	
STREET ADDRESS	CITY, STATE AND ZIP	DATE OF BIRTH	
	Philadelphia, PA 19130		
NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP, COMMITTEE, STATE OF LOCAL GOVERNMENT WHO DISCRIMINATED AGAINST ME (If more than one than list below)			
NAME:	NUMBER OF EMPLOYEES, MEMBERS	TELEPHONE (Include Area Code)	
City of Philadelphia	500 +	(215) 686-1300	
STREET ADDRESS	CITY, STATE AND ZIP	COUNTY	
240 Spring Garden Street	Philadelphia, PA 19123	Philadelphia County	
CAUSE OF DISCRIMINATION (Check appropriate box(es)) <input type="checkbox"/> Race <input type="checkbox"/> Color <input type="checkbox"/> Sex <input type="checkbox"/> Religion <input type="checkbox"/> National Origin <input type="checkbox"/> Retaliation <input type="checkbox"/> Age <input checked="" type="checkbox"/> Disability <input type="checkbox"/> Other (Specify)		DATE DISCRIMINATION TOOK PLACE Earliest : 07/30/2015 Latest : Ongoing	
THE PARTICULARS ARE: A. 1. <u>Relevant Work History</u> <p>On October 6, 2014,¹ I applied with the City of Philadelphia Fire Department ("Respondent") as a Fire Services Paramedic.</p> <p>I am registered as a Paramedic with the National Registry of Emergency Medical Technicians ("NREMT"), certified as a Paramedic with the Pennsylvania Department of Health, have over five (5) years of experience and education as a Paramedic, as well as over 1,100 hours of field internship experience. I am qualified for this position and am able to perform the essential functions of the job with a reasonable accommodation.</p>			
I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or telephone number and cooperate fully with them in the processing of my charge in accordance with their procedures		NOTARY - (when necessary for State and Local Requirements) I swear of affirm that I have read the above charge and that it is true to the best of my knowledge information and belief.	
I declare under penalty or perjury that the foregoing is true and correct.			

¹ All dates herein are approximate.

Chase Frost v. City of Philadelphia Fire Department
EEOC CHARGE OF DISCRIMINATION
Page 2 of 5

 Date: <u>1/11/2016</u> Charging Party (Signature)	SIGNATURE OF COMPLAINANT SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (Day Month, and year)
--	--

Additional Respondents:

1. City of Philadelphia Fire Department (215) 686-1300
240 Spring Garden Street
Philadelphia, PA 19123
2. City of Philadelphia Employee Medical Services (215) 685-2900
1901 Fairmount Ave
Philadelphia, PA 19130

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2. Harm Summary

I believe that Respondent has discriminated against me based on my "disability." Evidence of discriminatory conduct includes, but is not limited to the following:

- a) On August 11, 2007, I became "disabled" after a fire rescue which resulted in my left arm and right leg to be amputated and fitted with prosthetics.
- b) On October 6, 2014, I applied with Respondent as a Fire Services Paramedic. Based on my application, I received a high score.
- c) On June 29, 2015, Kia Miller, Clerk III for Respondent, emailed me information regarding orientation for the Fire Academy's 32nd Class.
- d) On July 7, 2015, I attended the orientation. Diane Schweizer, Deputy Commissioner Administrative Services, and Captain Art Alleyne, Captain, explained the essential functions of the Fire Services Paramedic position.
- e) On July 21, 2015, I was interviewed by William A. Twardzik, Esq., EEO Officer, and Ms. Schweizer. I requested that I be permitted to use a video laryngoscope that I had already owned and had approved by the NREMT as a reasonable accommodation. They told me that they would "look into [my] request."
- f) On July 21, 2015, Ms. Miller gave me a conditional offer of employment and instructions on how to complete the application process.
- g) On July 29, 2015, I was measured for bunker gear and it was difficult for me to fasten the coat and put on the boots because of my "disability."
- h) On July 30, 2015, I emailed Ms. Schweizer and requested a different version of the coat and "zip-up" boots as reasonable accommodations. Both of these items can be easily obtained by Respondent. Ms. Schweizer responded that she "would look into [my] concerns."
- i) On August 7, 2015, as part of Respondent's application process, I underwent a medical evaluation by the City of Philadelphia Employee Medical Services ("CPEMS"). Initially, I met with Dr. George Hayes, Jr., CPEMS Medical Director, and he conducted a physical examination. He inquired about my "disability" and asked if I was able to perform the essential functions of the Fire Services Paramedic position. I confirmed that I was able to perform the essential functions of the position. I reiterated the three (3) reasonable accommodation requests (video laryngoscope, coat, and boots) that I made to Mr. Twardzik and Ms. Schweizer to Dr. Hayes.
- j) On August 7, 2015, Dr. Hayes instructed me to give my treating physicians forms to complete so they could verify that I was able to complete the essential functions of the

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Fire Services Paramedic position. I agreed.

- k) On August 7, 2015, Dr. Hayes finished one part of my examination and I was taken to another room by another staff member to continue the examination. The staff member inquired about my "disability" and quickly did the examination.
- l) When she finished her portion of the examination, she told me that I could leave. I asked her about the remainder of the examination. She then asked Dr. Hayes if I was supposed to continue with the medical examination and he stated that I was. The staff member refused to continue my evaluation. I was then instructed to wait in the waiting room while Dr. Hayes and the staff member conversed.
- m) Approximately ten (10) minutes later, another staff member told me I could leave. I asked for the forms Dr. Hayes wanted my treating physicians to complete and for a job description of the Fire Services Paramedic position. I was given an envelope and left. I was at CPEMS for a total of six (6) hours and did not complete my medical examination.
- n) On August 7, 2015, when I arrived home, I realized the job requirements were not included in the envelope. I contacted CPEMS about the obtaining a description of the job requirements and was told they were "looking into it."
- o) On August 26, 2015, during a conversation with Dr. Hayes, he told me that I needed to complete a second set of paperwork.
- p) On August 27, 2015, I retrieved the paperwork and noticed that it was dated two weeks prior so I had it time stamped by a CPEMS staff member. The paperwork included a description of the job requirements. The job requirements were listed in a redacted email, from Robert Jeter, Captain, to Ms. Schweizer dated August 12, 2015. These requirements were not the same requirements given at the July 7, 2015 orientation by Ms. Schweizer and Captain Alleyne.
- q) On September 30, 2015, I turned in all of the required paperwork to Dr. Hayes. He reviewed the paperwork and conducted additional testing. He then instructed me "to think really hard" whether I wanted to proceed in applying at Respondent. I told him I wanted to work for Respondent.
- r) On September 30, 2015, Dr. Hayes told me that he would set up a meeting to discuss my potential employment. I then asked him if we could meet before the Fire Academy's 32nd Class started and he said "absolutely."
- s) As of January 7, 2016, I had not been contacted by Dr. Hayes or Respondent. I was not able to participate in the Fire Academy's 32nd Class.

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B. Respondent's Stated Reasons

- a) Respondent's failure to hire me to the position of Fire Services Paramedic was because of my "disability."
- b) Respondent has not provided a legitimate non-discriminatory reason for failing to hire me as a Fire Services Paramedic.
- c) Respondent has not provided a legitimate non-discriminatory reason for not allowing me to participate in the Fire Academy's 32nd Class.

C. Statutes and Basis for Allegations

I believe that Respondent has discriminated against me based on my "disability" in violation of the Americans with Disabilities Act, 42 U.S.C. § 12101, *et seq.* ("ADA") and the Pennsylvania Human Relations Act, as amended, 43 P.S. § 951, *et seq.* ("PHRA").

Exhibit 2



U.S. Department of Justice
Civil Rights Division

NOTICE OF RIGHT TO SUE WITHIN 90 DAYS

CERTIFIED MAIL

7014 3490 0000 6312 1980

950 Pennsylvania Avenue, N.W.
Karen Ferguson, EMP, PHB, Room 4701
Washington, DC 20530

June 06, 2017

Mr. Chase Frost
c/o Emily R. Derstine Friesen, Esquire
Console Mattiacci Law
1525 Locust Street, 9th Floor
Philadelphia, PA 19102

Re: EEOC Charge Against City of Philadelphia Fire Dept., et al.
No. 530201601271

Dear Mr. Frost:

Because you filed the above charge with the Equal Employment Opportunity Commission, and more than 180 days have elapsed since the date the Commission assumed jurisdiction over the charge, and no suit based thereon has been filed by this Department, and because you through your attorney have specifically requested this Notice, you are hereby notified that you have the right to institute a civil action under Title I of the Americans with Disabilities Act of 1990, 42 U.S.C. 12111, et seq., against the above-named respondent.

If you choose to commence a civil action, such suit must be filed in the appropriate Court within 90 days of your receipt of this Notice.

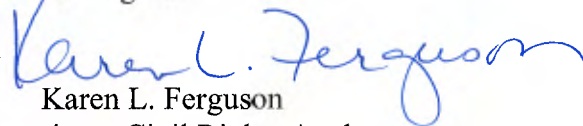
The investigative file pertaining to your case is located in the EEOC Philadelphia District Office, Philadelphia, PA.

This Notice should not be taken to mean that the Department of Justice has made a judgment as to whether or not your case is meritorious.

Sincerely,

T. E. Wheeler, II
Acting Assistant Attorney General
Civil Rights Division

by


Karen L. Ferguson

Supervisory Civil Rights Analyst
Employment Litigation Section

cc: Philadelphia District Office, EEOC
City of Philadelphia Fire Dept.